

UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

Before Commissioners: Curt Hébert, Jr., Chairman;
William L. Massey, and Linda Breathitt.

San Diego Gas & Electric Company
Complainant,

v.

Docket No. EL00-95-005

Sellers of Energy and Ancillary Services
Into Markets Operated by the California
Independent System Operator and the
California Power Exchange
Respondents.

Investigation of Practices of the California
Independent System Operator and the
California Power Exchange

Docket No. EL00-98-005

Public Meeting in San Diego, California

Docket No. EL00-107-002

Reliant Energy Power Generation Inc.
Dynergy Power Marketing, Inc.,
and Southern Energy California, L.L.C.,
Complainants,

v.

Docket No. EL00-97-001

California Independent System Operator
Corporation

Respondent.

Docket No. EL00-95-005, et al.

- 2 -

California Electricity Oversight Board
Complainant,

v.

Docket No. EL00-104-001

All Sellers of Energy and Ancillary Services
Into the Energy and Ancillary Services Markets
Operated by the California Independent System
Operator and California Power Exchange,
Respondents.

California Municipal Utilities Association
Complainant,

v.

Docket No. EL01-1-001

All Jurisdictional Sellers of Energy and Ancillary
Services Into Markets Operated by the California
Independent System Operator and the California
Power Exchange
Respondents.

CAlifornians for Renewable Energy, Inc. (CARE)
Complainant,

v.

Docket No. EL01-2-001

Independent Energy Producers, Inc., et. al.
Respondents.

Puget Sound Energy, Inc.
Complainant,

v.

Docket No. EL01-10-001

All Jurisdictional Sellers of Energy and/or
Capacity, et al.
Respondents.

ORDER CLARIFYING STATUS OF REHEARING REQUESTS

(Issued May 4, 2001)

On December 15, 2000, the Commission issued an order addressing the problems in California's wholesale bulk power markets. San Diego Gas & Electric Company, et al., 93 FERC ¶ 61,294 (2000) ("December 15 Order").

As early as December 18, 2000, parties began to file requests for rehearing of the December 15 Order. On January 12, 2001, the Secretary of the Commission, under his delegated authority in 18 C.F.R. § 375.302(v), issued an order granting rehearing for the limited purpose of reconsideration, thereby tolling the time in which the Commission had to act on the rehearing requests. Other parties filed requests for rehearing of the December 15 Order after issuance of the tolling order.

The Commission's general practice, as reflected in its recent orders, is to issue a merits order within 30 days of the filing of a request for rehearing. In those unusual circumstances when it is necessary to issue a tolling order, thereby offering the Commission more than 30 days to issue a merits order,¹ the Commission's practice is to issue a single tolling order, within 30 days of the earliest filed rehearing request, to toll the time with respect to all rehearing requests that were timely filed.

Some confusion has arisen with respect to the January 12 tolling order issued in this proceeding. Five parties, who filed requests for rehearing after January 12, have filed petitions for judicial review of the December 15 Order, claiming that their rehearing requests were denied by operation of law when the Secretary issued no further tolling order on or before February 15, 2001.² They are mistaken in assuming that separate tolling orders are issued for each rehearing petition. Our general practice since delegation, as noted above, has been to issue one tolling order to cover all requests for rehearing of any order. This is administratively efficient. The Commission also clarifies that all rehearing

¹Specifically, in recent months, the Commission has reduced significantly the number of tolling orders it issues and has pending. From late January to early April, the Commission issued only six tolling orders.

²See California Municipal Utilities Association v. FERC, No. 01-1156 (D.C. Cir. April 16, 2001), Modesto Irrigation District v. FERC, No. 01-1157 (D.C. Cir. April 16, 2001), County of San Diego v. FERC, No. 01-1178 (D.C. Cir. April 16, 2001), and Reliant Energy Power Generation, Inc., et al. v. FERC, No. 01-1179 (D.C. Cir. April 16, 2001)(consolidated by Court on April 18, 2001), and City of San Diego v. FERC, No. 01-70609 (9th Cir. April 17, 2001).

requests of the December 15 Order that were timely filed, and that have not already been acted on, remain pending.³

By the Commission.

(S E A L)

David P. Boergers,
Secretary.

³Cf. Valero Interstate Transmission Co. v. FERC, 903 F.2d 364, 369 (5th Cir. 1990) (holding that issuance of a tolling order made clear that the Commission had not yet made a final decision in the proceeding regardless of the status of other filings in the case).